

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JILLIAN HORMAN, an individual,

Plaintiff,

v.

SUNBELT RENTALS, INC., *et al.*,

Defendants.

Case No. 2:20-cv-00564-TSZ

**DECLARATION OF ADA K. WONG
IN SUPPORT OF PLAINTIFF'S
MOTION TO COMPEL DISCOVERY
RESPONSES AND FOR
ATTORNEY'S FEES**

NOTE ON MOTION CALENDAR:
February 19, 2021

I, Ada K. Wong, declare,

1. I am an attorney of record for Plaintiff Jillian Horman in this matter and make the following statements based on my personal knowledge.

2. On June 4, 2020, Plaintiff and Defendant Sunbelt Rentals, Inc. (hereinafter "Sunbelt") submitted their Joint Status Report [Dkt. # 17], in which the parties agreed to use the Model Protocol for Discovery of Electronically Stored Discovery in Civil Litigation ("ESI Protocol") (accessible at <https://www.wawd.uscourts.gov/sites/wawd/files/61412ModeleDiscoveryProtocol.pdf>).

3. On June 16, 2020, Plaintiff served its First Set of Interrogatories and First Set of Requests for Production (hereinafter collectively, "Plaintiff's Discovery Requests") to Defendant.

1 Plaintiff's First Set of Requests for Production ("RFP") includes requests for "any and all
2 communications regarding the matters alleged in Plaintiff JILLIAN HORMAN's Complaint," (RFP
3 No. 34; *see also* Nos. 33 & 15), and requests documents related to Plaintiff's firing (RFP No. 7),
4 Plaintiff's complaints to Defendant (RFP No. 23), Defendant's investigations into Plaintiff's
5 complaints (RFP No. 20), investigations of similar complaints by other employees (RFP No. 22),
6 Plaintiff's requests for reasonable accommodation (RFP No. 24), Defendant's consideration of
7 Plaintiff's accommodation requests, (RFP No. 25), and Defendant's engagement in the interactive
8 process (*see* RFP No. 26). Attached hereto as **Exhibits A and B** are true and correct copies of the
9 relevant pages of Plaintiff's Discovery Requests.

10 4. On June 29, 2020, Defendant served its Initial Disclosures, identifying the following
11 individuals as having discoverable information relevant to the claims and defenses at issue: Plaintiff
12 Jillian Horman, Perry Cook, Brent Johnson, Kristie Sobota Phelps, Reed Lee, and Mariana Troy.
13 Defendant also identifies "Documentation Regarding Plaintiff's Employment With Sunbelt" as
14 documents it may use to support its claims or defenses. Attached hereto as **Exhibit C** is a true and
15 correct copy of Defendant's Initial Disclosures.

16 5. On July 16, 2020, Defendant served its responses and objections to Plaintiff's
17 Discovery Requests. Defendant interposed numerous objections and produced 454 pages of responsive
18 documents, about 144 pages of which were e-mails regarding Plaintiff and their attachments.
19 Defendant's production was incomplete and unresponsive to many of Plaintiff's requests.

20 6. On August 20, 2020, I sent defense counsel a letter outlining deficiencies in
21 Defendant's responses to Plaintiff's Discovery Requests and requesting to meet and confer. Attached
22 hereto as **Exhibit D** is a true and correct copy of my August 20, 2020 letter.

1 7. On August 26, 2020, defense counsel responded to my August 8, 2020 letter requesting
2 a discovery conference. Defense counsel repeated its previous objections to Plaintiff's Discovery
3 Requests and refused to supplement its responses.

4 8. On October 2, 2020, I sent defense counsel a second letter to request a discovery
5 conference regarding Defendant's responses to Plaintiff's Discovery Requests. Attached hereto as
6 **Exhibit E** is a true and correct copy of my August 20, 2020 letter.

7 9. On October 8, 2020, the parties participated in a discovery conference. *See* Declaration
8 of Jordan T. Wada and Exhibit F.

9 10. On December 3, 2020, Defendant served its first supplemental responses to Plaintiff's
10 Discovery Requests. Defendant produced 56 pages, of which only 19 pages were e-mails or text
11 messages pursuant to the initial search terms. These were not fully responsive to many of Plaintiff's
12 Discovery Requests.

13 11. On January 14, 2021, I sent a letter to defense counsel requesting a discovery
14 conference to discuss Defendant's first supplemental responses and supplemental ESI search
15 methodology. Attached hereto as **Exhibit G** is a true and correct copy of my January 14, 2021 letter.

16 12. On January 25, 2021, defense counsel and I engaged in a discovery conference to
17 discuss Defendant's first supplemental responses and supplemental ESI search methodology. Defense
18 counsel refused conduct any additional ESI searches, claiming that all responsive documents had been
19 produced. Defense counsel stated that Plaintiff's only option was to seek the Court's intervention. I
20 sent a follow up letter summarizing this conference. Attached hereto as **Exhibit H** is a true and correct
21 copy of my January 26, 2021 summarizing this discovery conference.

1 13. On January 26, 2021, Defendant produced its second supplemental responses pursuant
2 to the initial search terms, which included only 15 responsive documents, all of which were duplicates
3 of previously produced documents.

4 14. Defendant Sunbelt, to date, refuses to discuss an additional ESI search.

5 15. Attached hereto as **Exhibit I** is a true and correct copy of Bates Nos. SB/Horman-
6 DEF00498-504, produced by Defendant as supplemental discovery after initial ESI search terms were
7 agreed. The e-mails appearing on Bates No. SB/Horman-DEF00498-499 appear to continue a thread
8 that was partially produced in Bates No. SB/Horman-DEF00285 (See Exhibit N, referenced *infra*).

9 16. Attached hereto as **Exhibit J** is a true and correct copy of Bates Nos. SB/Horman-
10 DEF00238-243, produced by Defendant in the course of discovery. Bates Nos. SB/Horman-
11 DEF00239-243 are attachments titled “Job Description” and “Certification of Health Care Provider:
12 Personal Leave of Absence,” provided to Plaintiff by Human Resources Generalist Mariana Troy.

13 17. Attached hereto as **Exhibit K** is a true and correct copy of Bates No. SB/Horman-
14 DEF00443, produced by Defendant in the course of discovery.

15 18. Attached hereto as **Exhibit L** is a true and correct copy of Bates No. SB/Horman-
16 DEF00445, produced by Defendant in the course of discovery.

17 19. Attached hereto as **Exhibit M** is a true and correct copy of Bates No. SB/Horman-
18 DEF00492, produced by Defendant in the course of discovery.

19 20. Attached hereto as **Exhibit N** is a true and correct copy of Bates Nos. SB/Horman-
20 DEF00285-287, produced by Defendant in the course of discovery.

21 21. Attached hereto as **Exhibit O** is a true and correct copy of Bates No. SB/Horman-
22 DEF00305, produced by Defendant in the course of discovery.

22. Attached hereto as **Exhibit P** is a true and correct copy of Bates Nos. SB/Horman-DEF00228-231, produced by Defendant in the course of discovery. Bates No. SB/Horman-DEF00231 is an attachment titled “Accommodation Request Form” which Benefits Specialist Margarita Gensler asks Human Resources Generalist Mariana Troy to have Plaintiff complete. Ms. Troy sent Plaintiff two *different* forms instead of the “Accommodation Request Form.” *See* Exhibit J, *supra*, Bates Nos. SB/Horman-DEF00239-243.

23. Attached hereto as **Exhibit Q** is a true and correct copy of Bates No. SB/Horman-DEF00435, produced by Defendant in the course of discovery.

24. Attached hereto as **Exhibit R** is a true and correct copy of Bates No. SB/Horman-DEF00258, produced by Defendant in the course of discovery.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct and is based upon my personal knowledge.

DATED February 4, 2021, in Mountlake Terrace, WA.

/s/ Ada K. Wong

Ada K. Wong, WSBA #45936

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2021, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Shane P. Cramer
Harrigan Leyh Farmer & Thomsen LLP
999 Third Avenue, Suite 4400
Seattle, WA 98104
E-mail: shanec@harriganleyh.com
Counsel for Defendant Sunbelt Rentals, Inc.

Patricia J. Hill
Yash B. Dave
Smith, Gambrell & Russell, LLP
50 North Laura Street, Suite 2600
Jacksonville, FL 32202
E-mail: pjhill@sgrlaw.com
E-mail: ydave@sgrlaw.com
E-mail: cmarsh@sgrlaw.com
Pro hac vice Counsel for Defendant Sunbelt Rentals, Inc.

Isabel Johnson
LAW OFFICE OF ISABEL S. JOHNSON, PLLC
748 Market Street #15
Tacoma WA 98402
E-mail: isabel@isjlaw.com
Co-Counsel for Plaintiff

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED: February 4, 2021, at Mountlake Terrace, Washington.

/s/ Kaila A. Eckert
Kaila A. Eckert